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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,997	04/15/2004	Jerry Joseph	RESEM.P-003	7274
28752	7590	04/21/2006	EXAMINER	
LACKENBACH SIEGEL, LLP LACKENBACH SIEGEL BUILDING 1 CHASE ROAD SCARSDALE, NY 10583			RODRIGUEZ, PAMELA	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/824,997	JOSEPH, JERRY	
	<b>Examiner.</b>	<b>Art Unit</b>	
	Pam Rodriguez	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date, _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

1. The Amendment filed February 16, 2006 has been received and considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,169,244 to Siebert et al.

Regarding Claim 1, Siebert et al disclose a bushing member 19 (see Figure 2), having all the features of the instant invention including: an elastomeric member 3/4 defining a central opening 10 between a front face and a rear face; a slot 7 in said bushing along a first side of said elastomeric member providing a lateral access from an exterior of said elastomer member to said central opening (see Figure 2); hinge means 5 for reducing an opening force of said elastomeric member and for easing said lateral access to said central opening; and at least a part of said hinge means 5 for reducing positioned proximate a second side of said elastomeric member distal said slot 7 (see Figure 2), whereby during an opening of said bushing member said hinge means reduces an opening force required for separating said slot and inserting an external

member into said central opening and improves a smooth transfer of said external member into said slot (see column 3 lines 5-20).

Regarding Claim 2, Siebert et al disclose an outer seal member 9 on each respective said front and rear face; and each said outer seal members 9 bounding said central opening 10 and joining respective sides of said slot 7 to provide a seal with said external member (see Figure 4), whereby when said external member is assembled with said bushing member each said outer seal member 9 provides a sealing contact with said external member and minimizes a debris entry to said central opening (see Figure 4).

Regarding Claim 3, Siebert et al disclose at least a first and a second flange member 3/8 and 4/8 extending outwardly from an outer edge portion of said elastomeric member 3/4 proximate respective said front face and said rear face (see Figure 2).

Regarding Claim 4, Siebert et al disclose that the first and said second flange members 3/8 and 4/8 define respective hinge portions 5 proximate said second side wherein a thickness of respective said flange members is reduced (see Figure 2), said hinge means 5 for reducing includes said respective hinge portions; and said hinge portions minimizing said opening force of said elastomeric member 3/4 and easing said lateral access to said central opening 10 during an insertion of said external member, whereby an opening stress on said bushing member is minimized and a risk of damaging said bushing member is reduced.

Regarding Claim 5, see Claims 1 and 2 above.

Regarding Claim 6, see Claim 3 and Figure 2.

Regarding Claim 7, see Claim 4.

Regarding Claim 8, see Claims 1-3.

Regarding Claim 9, see Claim 4.

Regarding Claim 10, see Claim 1 above and further note bracket member 14 (see Figure 5) bounding a portion of the elastomeric member  $\frac{3}{4}$ , whereby when assembled the bracket member is shaped to slide over a saddle portion of the elastomeric member (see Figure 5 and the portion of the elastomeric member  $\frac{3}{4}$  which bracket member 14 is located thereon).

Regarding Claim 11, see Claim 3.

Regarding Claim 12, see Claim 4.

Regarding Claim 13, see Claim 2.

Regarding Claim 14, Siebert et al further disclose means 17 for positioning and stiffening the bracket member 14, a first and a second edge member in the means for positioning (see Figure 7 and the edges of elements 17), and wherein the first and second edge members extend away from an outer portion of "the elastomeric member"  $\frac{3}{4}$  (see Figure 5), [note: applicant has claimed a "ridge member" here but has provided no antecedent basis for this term, as indicated in the 112 second paragraph rejection above. However, since the examiner is unsure what portion of the figures constitutes the "ridge member" the examiner has assumed that applicant is referring to the elastomeric member here and the claim has been treated as such), whereby the edge members provide at least a guiding alignment to the elastomeric member during an assembly (see column 4 lines 1-9).

Regarding Claim 17, see Claims 1-3 and 10.

Regarding Claim 18, see Claim 14.

Regarding Claim 19, see Claims 1-3 and 10.

Regarding Claim 20, Siebert et al disclose the step of compressing the elastomeric member  $\frac{3}{4}$  sufficiently to press closed the slot 7 and provide a leak resistant seal along at least the slot thereby minimizing moisture access to the external member (note that bracket 14 would compress member  $\frac{3}{4}$  to lock slot 7 closed, thus providing some sort of sealing function at the slot itself).

#### ***Allowable Subject Matter***

4. Claims 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

5. Applicant's arguments filed February 16, 2006 have been fully considered but they are not persuasive.

Applicant has made a series of remarks arguing that the Siebert et al reference relied upon by the examiner does not disclose a bushing member having an elastomeric member. Applicant argues that 1) the examiner is interpreting the term "elastomeric" to be a meaning not dictated by or restricted to the disclosure 2) that the background of invention section of the reference infers that the members 3 and 4, referred to by the

examiner as the elastomeric member claimed, can not be elastomeric and 3) that the tongue 6 and slot 7 structures of the Siebert reference inherently requires that the shell 3 be made of a rigid material which is capable of remaining in a fixed bent position.

In response to all these arguments, the examiner wishes to point out that the Siebert et al reference does not specifically disclose what material shells 3 and 4 are made of. Further, the examiner understands and realizes that the term "elastomeric" implies a material that is flexible and that can return to its original state upon the release of a stress imposed on the material. The examiner is not, contrary to applicant's assertions, attempting to re-define the accepted meaning of the term. Rather, the examiner is merely interpreting the claims as they are drafted. In the examiner's view, members 3 and 4 would inherently have some degree (however small) of flexibility to them due to their ability to surround and engage the shaft 11 through the bearing material 9 (even metal, if applicant is correct in what he believes is the material of shells 3 and 4, has some degree of flexibility to it). So taken in this context, shells 3 and 4 are still readable as being an elastomeric material. Applicant should also note that in column 1 lines 9-11 of Siebert that his bushing assembly is not limited to use in high-temperature oven environments but can also be used in other applications.

Applicant further argues that the ability of the bearing material of Siebert to be sub-divided and the flanges 8 of his assembly being formed from the same material as the shells 3 and 4 are further indications of why the shells 3 and 4 can't be elastomeric. Again, the examiner respectfully disagrees. These capabilities and structures of the bushing of Siebert do not automatically imply that the shells 3 and 4 are not elastomeric.

These structures are merely features of the Siebert reference and not explicit proof that the shells can not be elastomeric.

In summary to applicant's arguments to the members 3 and 4 of Siebert not being elastomeric, the evidence provided by applicant is simply not proof enough to discredit this. While applicant is correct that the disclosure of Siebert is silent as to the material of shells 3 and 4, the examiner is contending that no matter what the material, inherently it would have some degree of elastomeric property to it, i.e., some amount of flexibility or resiliency to it, due to its functionality within the assembly.

Applicant then goes on to argue that elements 2-7 on page 17 of his response filed February 16, 2006 are not disclosed by the Siebert reference. Again, the examiner disagrees. Element 2 is merely another limitation of Claim 1, wherein the central opening is shown at element 10 of the Siebert reference. Elements 3 and 4 are the limitations of Claim 2 disclosed by Siebert as outlined in the rejection of the claim above. Element 5 is the limitation of Claim 3 disclosed by Siebert as outlined in the rejection of the claim above. Element 6 is the limitation of Claim 4 disclosed by Siebert as outlined in the rejection of the claim above. And Element 10 is a limitation of Claim 10 disclosed by Siebert as outlined in the rejection of the claim above. Thus, the examiner believes that these elements are all taught by the reference applied.

It is for these reasons that the rejections have been maintained.



***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

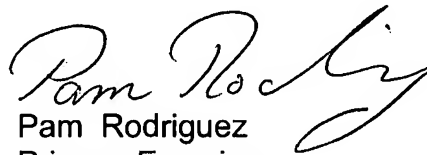
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM -4 PM and Tuesdays 5 AM -11 AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pam Rodriguez  
Primary Examiner  
Art Unit 3683  
4/17/06

Pr  
04/17/06